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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,849	11/27/2001	Michael K. Davis	50031-0020	4891

36178 7590 04/03/2007  
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EXAMINER
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KNEPPER, DAVID D

ART UNIT	PAPER NUMBER
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2626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/03/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

09/996,849

**Applicant(s)**

DAVIS ET AL.

**Examiner**

David D. Knepper

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 Deec 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. Applicant's correspondence filed on 18 December 2006 has been received and considered. Claims 1-17 are pending.

### Title

2. The title is accepted as amended.
3. The request for withdrawal of Finality of the previous Office Action is moot in view of the request for RCE of 18 Dec 2006.

### Claims

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-17 are rejected under 35 U.S.C. § 103 as being unpatentable over Cilurzo (6,434,526) in view of Tanenbaum ("Computer Networks").

"Facilitating the exchange of speech recognition and transcription" is taught by Cilurzo with his speech server 300, figure 3:

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“at least one system transaction manager... one of the users employing a first system protocol.. more of the users employing a second system protocol that is different” (taught by his network server 202, figure 3 and internet connection to user 100 which is not limited to any particular computer system – see Tanenbaum, figures 1-3 for well known network topologies which would be obvious implementations for network servers and see Tanenbaum, figures 1-5, 1-6, and 1-7 showing that it would be obvious between applications on different computers within a network to have at least 10 different translations between seven layers of protocols – of course, it would be obvious that Applications sharing or processing data could have their own protocol requirements as well – see, for example, page 21 of Tanenbaum which has an example of different protocols for transmitting/receiving text such that conversion between character codes, such as ASCII to EBCDIC, might often be useful as well as his recognition that industry specific protocols such as for banking or airline reservation, allow computers from different companies to access each other’s data bases when that is needed.); and

“at least one speech recognition and transcription engine” (taught by his speech manager 300 and speech engine 304 which facilitate speech recognition to be communicated to the user or users as necessary over the network – the transcription result is described in col. 5, lines 22-23: As the user dictates, the message appears in print on his screen.).

The rejection above clearly states that this is read upon Cilurzo’s network server which provides protocols that allow translation and connection to the internet. A server is by definition a computer running administrative software that controls access to all or part of the network and its resources.

It is noted that Cilurzo does not explicitly use the term “speech information request”. However, he teaches it is an object of the present invention to provide, on a network, specific application software with a speech recognition capability (col. 2, lines 46-48). It would have been obvious for a person having ordinary skill in the pertinent art, at the time the invention was made, to combine Cilurzo’s system with a variety of requests for information because he teaches that his system is for use with any type of application software and computers are capable of handling and providing a great variety of information such as his teachings of radiology (col. 1, line 65-col.2, line 5), Lotus Notes (col. 5, line 21), medical information (col. 5, line 34) or chat sessions (col. 6, line 2). Thus, it would have been obvious to use speech recognition for requests of any information that a computer may manipulate because Cilurzo provides examples to include radiology or more general medical information as well as information that humans send to each other using other software such as Lotus Notes or chat software.

It is also noted that Cilurzo does not explicitly teach that computer users may have different protocols. However, one of ordinary skill in the art of computer networks knows that different users do not all have identical computers, operating systems, computer software applications, etc. As previously noted, the applicant’s specification fails to teach any unique protocols. Thus, the claimed protocols can only be read on obvious prior art protocols that are suggested by Cilurzo’s use of proprietary intranet network 200 (fig. 3) as well as uniform protocols such as used on the internet allowing communication with different users employing different combinations of hardware and software (col. 3, lines 28-36 and col. 4, lines 15-20). Tanenbaum is a basic textbook from 1981 that teaches that it is common to allow networked computers to translate among computers having different protocols to make these differences

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transparent to the user. This is done by allowing translation between different layers of computer software as illustrated and explained by Tanenbaum using the international standards (ISO) that are now notoriously well known for internet communications.

Claims 2-13 are directed towards handling speech information for routing to one or more users. This is inherent in the chat session usage suggested by Cilurzo in column 6. As one of ordinary skill in the art is aware, a chat session may initiated by any user and may involve one or more additional users online regardless of the type of computer they are using.

Claim 14: See claim 1 above. A “uniform system protocol” is inherent in any network based system. Failure to provide a uniform protocol will make a network unstable and unusable for desired communications.

Claim 15: See claim 1 above. The claimed “second user application” is stated to be “different than the first user application” which is addressed with Tanenbaum above.

Claims 16 and 17: See claim 1 above. The claimed “exchanging transcribed spoken text” is an obvious application of the chat sessions noted above. Furthermore, Tanenbaum teaches that it is well known to translate different types of text as noted above.

### **Response to Arguments**

6. The arguments are not convincing. As was explained in the previous Office Action and during the interview, removing “the same” language to indicate that users have systems with different protocols overcomes the prior art applied in the first office action in July of 2004 and the removal of this language is what required additional art to be applied.

Tanenbaum (Computer Networks) is now applied against the claims showing how networks may be interconnected (including subnets) using differing protocols. It is noted that the applicant's claims fail to include any limitations towards translating a particular "legacy" protocol. Therefore, the claims fail to differentiate the well known abilities of different types of computers, operating systems, etc. to connect to each other over a network (such as the internet) and properly send and receive information.

The applicant's arguments that the invention uses ASA functions to convert between protocols does not appear in the claims. In reviewing the specification, it is noted that pages 27 and 29 indicate that legacy systems rely upon protocols that must be compatible with "the Normalized Data Format" which is undefined and therefore fails to differentiate over known protocols with known differences that commonly require layers of software to perform translation between them.

Further review of the specification indicates that the applicant's arguments are contradicted by the definition of Application Service Adapter (ASA) on page 3, paragraph [0033]. The last sentence reads: "Thus, for example the ASA provides a bi-directional translation service between the User's Native Communications Protocols/Native Application Protocols and a uniform system protocol, e.g. TCP/IP, used by the System Transaction Manager. Thus, it appears that the "transaction manager" claimed can be read upon standard TCP/IP protocols which removes the so-called "legacy problem". Tanenbaum clearly teaches that it is known to translate known protocols and he uses an analogy where different languages must be translated for communications on page 12. While the applicant seems to quote accurately from a portion of Tanenbaum, the arguments presented contradict the teachings of Tanenbaum.

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On page 36, [0015], the specification indicates “The Application Service Adapter 80’ may convert Requests, Responses, and the like using any mechanism... transmitting characters in ASCII, EBCDIC...” indicating that the conversion may represent nothing more than commonly transmitted text. Thus, the arguments continue to be misleading because this indicates that mechanisms taught by Tanenbaum for converting between text formats such as ASCII and EBCDIC are no different than mechanisms contemplated for use by the applicant. It should be noted that the translation of text by Tanenbaum, while representing a particular example of a particular conversion within a particular layer of software, is trivial when compared to the details for translation that Tanenbaum teaches for higher and lower levels of software among different systems within a network. However, the claims do not contain language for particular translation or protocols nor does the specification seem to teach any details for particular types of translation or protocols.

Fiuczynski et al., (The Design and Implementation of an IPv6/IPv4 Network Address and Protocol Translator); X.25, Internet Protocols and AppleTalk (Cisco Systems) was previously cited to show the type of information that the applicant may need to add to the disclosure to support any new or unobvious types of translation for new standards or for “legacy” protocols. For example, X.25 protocols were initiated in the 1970’s, so one of ordinary skill in the art would be able to translate them. However, if the applicant is using a “legacy” protocol that differs or would not be obvious to one of ordinary skill in the art, then it will be necessary to spell out in great detail and/or provide detailed comparisons to show how it differs from known protocols.

The arguments on page 15 that the Examiner did not address a “system manager” is blatantly false. The applicant defines “System Transaction Manager” on page 4, paragraph



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[0054] of the specification as: "A server application that provides a central interconnect point (hub) and a communication interface among System components and Users having disparate or heterogeneous protocols; and, an information router (or bridge or switch) within the Speech Recognition and Transcription System." The rejection above clearly states that this is read upon Cilurzo's network server which provides protocols that allow translation and connection to the internet. A server is by definition a computer running administrative software that controls access to all or part of the network and its resources. It is unclear whether the applicant misquoted the claimed "system transaction manager" by accident or for some unknown purpose.

Applicant's quotation of the MPEP 706.07(a) erroneously implies that the instant application is involved in reexamination proceedings. However, it is noted that the art in question regarding the final Action was clearly proper because Tanenbaum was of record and the applicant was specifically put on notice that it could be used under certain circumstances. The change to the claims that required it to be applied should have been anticipated by the applicant as such circumstances.

7. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Some correspondence may be submitted electronically. See the Office's Internet Web site <http://www.uspto.gov> for additional information.

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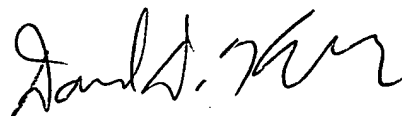
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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Knepper whose telephone number is (571) 272-7607. The examiner can normally be reached on Monday - Thursday from 8:00 a.m.-6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth, can be reached on (571) 272-7843.

For the Group 2600 receptionist or customer service call (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Inquiries regarding the status of submissions relating to an application or questions on the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free) between the hours of 6 a.m. and midnight Monday through Friday EST, or by email at [ebc@uspto.gov](mailto:ebc@uspto.gov). For general information about the PAIR system, see <http://pair-direct.uspto.gov>.



David D. Knepper  
Primary Examiner  
Art Unit 2626